

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 11, 13-19 and 21-30) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention provides a drink, or pouring, closure for composite packs or for necks of containers and bottles, which are closed with a foil material. This type of closure should be rather simple in construction, to be practical, and should offer a drinking spout for the mouth of a user or, in the alternative, an orifice for dispensing pasty contents contained within the packagings.

The present invention, as now most broadly claimed, provides a drink or pour closure having a pierce-cutting feature for composite packs or necks of containers or bottles closed via an aluminum foil, which includes an end connector having a radial flange projecting from a bottom thereof or a threaded cap at the bottom thereof for screwing a collar thread thereon. The end connector further includes a mouth, or pouring piece, and a pierce-cutter formed on an inner side of the end connector for forming a nipple fitted inside the end connector. The pierce-cutter forms at least one pierce point with a bottom edge of the pierce-cutter forming at least one swung cutting edge, rising at an angle of a nipple rotation axis with the mouth, or the pouring piece, and forming on an outer side of the end connector, a sleeve surrounding the end connector that is able to move on the end connector. Finally, in contrast to that disclosed or suggested by the prior

art, a plurality of guiding devices between the outer side of the end connector and an inner side of the sleeve are included, with the plurality of guiding devices engaging with one another, so that when the mouth, or the pouring piece, is pressed downwardly or rotated on the end connector, a steep helical turning of the mouth, or the pouring piece, is caused relative to the end connector. The claimed invention, unlike the applied prior art, provides a drinking spout for the mouth of a user and aids in the avoidance of common spillage.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient drinking and pouring closure having a piecing cutter device for composite and similar packagings, which permits a user to drink directly from a pouring or drinking spout, and which includes a plurality of guiding devices between the outer side of the end connector and an inner side of the sleeve, so that when the mouth, or the pouring piece, is pressed downwardly or rotated on the end connector, a steep helical turning of said mouth, or the pouring piece, is caused relative to the end connector, either disclosed or suggested.

By the present amendments, Applicant has cancelled dependent Claim 12 and has incorporated the subject matter thereof into independent Claim 11, thereby effectively presenting Claim 12 in independent form. Applicant has also entered formal amendments with respect to dependent Claims 13-15, including correction of the typographical error noted by the Examiner with respect to the objection issued against Claim 14.

Applicant has also proceeded to add new dependent Claim 21 and 22, which have

been made dependent upon amended independent Claim 11 and which recite preferred embodiments of the claimed invention. Dependent Claims 12 and 20 have been canceled.

Finally, Applicant has added new Claims 23-30 for the Examiner's consideration. New independent Claim 23 recites the preferred embodiment of FIG. 12, which is described at ¶ 0035 of Applicant's *Specification*, and is similar (though not identical) in scope to the subject matter of dependent Claim 14.

Turning now, in detail, to an analysis of the Examiner's prior art rejection of Applicant's claims, in the first Office Action the Examiner has rejected the subject matter of dependent Claim 12 (which subject matter has now been incorporated into independent Claim 11) as being obvious, pursuant to 35 U.S.C. §103(a), over Wood, U.S. Patent No. 5,927,549, taken in view of Gross *et al.*, U.S. Patent No. 6,477,743. It is the Examiner's contention that the primarily-applied reference of Wood discloses that which is claimed by the instant Applicant, except for a "plurality of guiding devices," as originally recited in dependent Claim 12. Gross *et al.*, according to the Examiner, discloses a drink and pour closure having a pierce cutting feature that includes a plurality of guiding devices (150, 170) between the outer side of an end connector (30) and an inner side of a sleeve (120). The Examiner has therefore concluded that it would have been obvious to have modified the apparatus of Wood by employing the guiding devices of Gross *et al.* to arrive at that which is claimed by Applicant in amended independent Claim 11.

In reply to the Examiner's obviousness rejection applying Wood, taken in view of Gross *et al.*, it is respectfully submitted that, while both of the applied citations relate

generally to container closures, neither Wood nor Gross *et al.* disclose or suggest a container having a drink and pour spout which may be used by the mouth of a user for preventing common spillage. Further, it is contended that the plurality of guiding devices, which is now a recited limitation in independent Claim 11, is not suggested by the primarily-applied reference of Wood and this feature of Gross *et al.* could not readily be incorporated, either physically or conceptually, into the Wood apparatus.

In view of the foregoing, it is respectfully contended that independent Claim 11, as now amended, cannot reasonably be viewed as being obvious over Wood, taken in view of Gross *et al.* Accordingly, withdrawal of the Examiner's foregoing 35 U.S.C. §103(a) obviousness rejection is respectfully requested.

Applicant has also added new independent Claim 23 to the instant patent application, which is directed toward the preferred embodiment illustrated in FIG. 12. In this embodiment, the "toothing" is made so that the cap, upon turning, can transfer momentum onto the pierce-cutter into order to properly turn the pierce-cutter for allowing a clean cut. This preferred embodiment of Applicant's invention is submitted to be neither disclosed nor suggested by Wood or any combination of the prior art of record.

Concerning, finally, the remaining references cited by the Examiner, but not applied in any rejection of Applicant's claims, such additional references has been carefully considered, but is not deemed to adversely affect the patentability of the present invention, as now claimed.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 11, 13-19 and 21-30) recite a novel and efficient drinking and pouring closure having a piecing cutter device for composite and similar packagings, which permits a user to drink directly from a pouring or drinking spout and which includes a plurality of guiding devices between the outer side of the end connector and an inner side of the sleeve, the plurality of guiding devices engaging with one another, so that when the mouth, or the pouring piece, is pressed downwardly or rotated on the end connector, a steep helical turning of said mouth, or the pouring piece, is caused relative to the end connector, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.